

October 26, 2007

Linda S. Adams, Secretary
California Environmental Protection Agency
1001 I Street
Sacramento CA, 95814

Re: California's Green Chemistry Initiative and Chemical Management Systems

Dear Ms. Adams:

The Dow Chemical Company (Dow) appreciates the opportunity to provide additional comments on a recent discussion initiated by the California Environmental Protection Agency on chemicals management policy. As a company providing products and services in over 175 countries, we comply with a broad range of chemical management policies and programs. Dow supports a consistent, coordinated regulatory environment for products at global, national and regional levels to complement industry voluntary efforts and to ensure a level playing field. Where new regulations are required, they should be based on established scientific risk assessment and risk management principles – predictable, flexible and capable of responsibly addressing society's economic, environmental and safety requirements. We recognize that regulatory systems will inevitably vary by country since they must work effectively within the broader statutory and regulatory framework for each country. Nevertheless, we generally support broad regional programs that provide the greatest consistency and uniformity for the industry as a whole.

As a result, Dow is not an advocate for any particular program. Instead, we have developed a set of principles for effective chemical management programs. As governments select specific legislative or regulatory approaches to product safety or chemical control policies, we believe that certain principles should be adhered to, and we present them below.

Principles for Chemical Management Systems

1. A chemical management system must be RISK-BASED.
2. The system should SCREEN all chemicals (new and existing) to determine further information needs in a TIERED, risk-based approach.
3. The system should initially leverage AVAILABLE INFORMATION
4. The system should recognize the SHARED RESPONSIBILITIES of each party within the VALUE CHAIN
5. The system should promote TRANSPARENCY

In addition to advocating for these principles, we implement them in geographies that do not have established chemical policies. More detail on these principles is publicly available at <http://www.dow.com/commitments/goals/principles.htm>.

Overall, the process Canada is using for Categorization & Screening of its Domestic Substances List (CSDSL) is largely consistent with Dow's Principles for Chemical Management Systems. Many questions remain with respect to the European Union (EU) Registration, Evaluation, and Authorization of Chemicals Program (REACH), since it was just recently enacted and many implementation issues have yet to be addressed or evaluated for success.

Dow believes that there needs to be a sufficient knowledge base to assess health, safety and environmental effects of chemicals, and there is a need to assist users and governments in managing their risks. The provision of this knowledge base and continuous improvement in the safe use of chemicals is a shared responsibility among producers, distributors, users, and other stakeholders at each stage of the supply chain, and there is a legitimate role for government regulation. An example of our commitment to providing this information, Dow has actively supported voluntary programs in the US under High Product Volume (HPV) Challenge program and internationally through the Organization for Economic Co-operation and Development (OECD) Screening Information Data Sets (SIDS) program by sponsoring over 180 chemicals under these initiatives. In addition by 2015, Dow will make publicly accessible safety assessments for its products globally, and in doing so will address relevant gaps in hazard and exposure information. Dow will make its product safety assessments accessible to the public by providing a summary on www.dowproductsafety.com with detailed information links. Summaries will be written in non-technical language and will cover topics such as basic hazards, risk and risk management.

Information for decision making is a key component of REACH. Dow fully endorses the objectives of REACH and the responsibility the legislation places on all members of the value chain to enhance the protection of human health and the environment and to increase the knowledge base on hazards and risks of chemical substances and their uses. These objectives are fully aligned with Dow's commitment to sustainability and our 2015 goals. We remain concerned about the authorization and the administration processes, and believe the European Commission needs to provide additional guidance on REACH implementation. We have been and continue to be actively engaged in a number of REACH Implementation Projects (RIPS) that will lead to the needed guidance on how to effectively implement REACH.

Consistent with our Principles for Chemical Management Systems, we support science-based risk assessment and risk management approaches, particularly in the areas of prioritization of substances and the criteria for granting Authorization under REACH. We do not support prioritization based on hazard alone, which would expose candidate chemicals to de-selection (effectively banned) by markets without appropriate consideration of potential exposure and actual risk. We are concerned that some parties in California's Green Chemistry Initiative discussion are focusing only on the hazards of

certain chemicals without regard to exposure, substitution costs, benefits to society, and other important factors.

Again with regard to REACH, we are concerned that the proposed system for granting authorization may create a bureaucratic bottleneck. Discontinuation of use may occur on the basis of economic considerations only, due to the cost and complexity of requesting Authorizations. In such cases, socio-economic loss may be incurred, without achieving any health or environmental benefits. Authorization for use of substances in specific applications needs to be granted if adequate controls can be demonstrated. When it is demonstrated that the risk can be adequately controlled, decisions on a potential substitution should be made by the marketplace, based on needs, cost and other factors.

There is also a need to retain certain business information as confidential in order to protect intellectual capital. Health and environmental information should not be considered confidential.

Perhaps the best opportunity for California is to utilize the information which will come from the recent cooperative agreement between Canada, the United States and Mexico (the "Montebello Agreement") rather than initiate a separate chemical management policy. Dow strongly supports the recently announced Montebello Agreement between Canada, the US and Mexico and the associated regulatory cooperation in the area of chemicals (attachments imbedded electronically below or appended to this letter in printed versions). We are for chemical management policies that protect human health and the environment, consistent with Dow's Principles for Chemical Management Systems. We also support a combination of voluntary and regulatory initiatives that expedite the implementation of effective chemical management policy. For example, more information was made available under the voluntary HPV Challenge between the US EPA and chemical industry in 6 years than was provided in the previous 40 years under regulatory programs alone. We are committed to working with US EPA as well as Canadian and Mexican authorities in a spirit of openness and cooperation.



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We encourage California to take advantage in its chemical management policy of the wealth of information that will be generated through this cooperative program.

While effective chemical management regulatory policy is a key component of chemical management systems, we remain convinced that the greatest opportunity for California is in establishing flexible approaches that support the use of life cycle-assessment to more holistically evaluate the balance between societal needs, protection of public health and the environment, and sustainable production and consumption, rather than through traditional regulatory paradigms. This approach considers the product use from cradle-to-

cradle, from the use of renewable/non-renewable raw materials, energy consumption and preservation, emission of greenhouse-gases, and ultimate fate (e.g., waste vs. recycle) in addition to the evaluation of chemical safety. We also support the engagement of the public in the process, through increased information for informed decision making.

Thank you for the opportunity to engage in open and frank dialogue on an issue of such importance. We look forward to continuing the discussion and we are available to clarify any of these comments or offer opinions on the Initiative as it advances. I can be reached at (925) 432-5122 or fischback@dow.com

Sincerely,

Randy Fischback
Public & Government Affairs

Attachments

Cc: Maureen Gorsen, DTSC
Jeffery Wong, DTSC